

ATTACHMENT G

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Final Staff Report

**Proposed Amended Rule 1302 – Definitions and
Proposed Amended Rule 1325 – Federal PM2.5 New Source Review Program**

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EXECUTIVE SUMMARY

On February 12, 2016, at the request of the South Coast Air Quality Management District (SCAQMD), the U.S. EPA reclassified the South Coast Air Basin (Basin) as a “serious” nonattainment area for the 2006 PM_{2.5} 24-hour National Ambient Air Quality Standards (NAAQS).¹ To comply with federal requirements for “serious” nonattainment areas and the U.S. EPA’s Fine Particulate Matter National Ambient Air Quality Standards implementation rule, Rule 1325 – Federal PM_{2.5} New Source Review Program is proposed to be amended to modify the Major Polluting Facility definition to align the associated major source emission threshold from 100 to 70 tons per year for PM_{2.5} and PM_{2.5} precursors. VOC and ammonia are also being proposed to be added to the Proposed Amended Rule (PAR) 1325 definition of Precursors and a VOC and ammonia threshold is proposed at 40 tons per year as part the definition of “Significant”. Lastly, an exemption from the offset requirements for Rule 1325 for a source installed or modified solely to comply with SCAQMD, State or federal air pollution control laws, rules, regulations, or orders is being added under PAR 1325 provided there is no increase in maximum rating, subject to Executive Officer approval. In addition to PAR 1325, SCAQMD staff is proposing to correct the SO_x Major Polluting Facility threshold identified in Rule 1302 – Definitions, by lowering it from 100 to 70 tons per year. Other editorial changes for PAR 1302 and 1325 are intended to improve rule clarity and consistency.

All of the proposed amendments will become effective upon adoption, with the exception of the PAR 1325 major source thresholds and introduction of ammonia and VOC as PM_{2.5} precursors which will become effective August 14, 2017 or upon the effective date of U.S. EPA’s approval of PAR 1325, whichever is later. No significant impacts are anticipated for PAR 1302 and 1325 as the thresholds are very high before requirements are triggered, and for PAR 1325, it is likely in many cases existing facilities would take a cap on total facility PM_{2.5} emissions and/or make concurrent facility reductions to avoid triggering the PM_{2.5} New Source Review (NSR) requirements. Additionally, SCAQMD staff is unaware of any applications for new facilities which would exceed the PAR 1325 or PAR 1302 major source thresholds.

BACKGROUND

Introduction

The federal NSR permitting program relies on emissions thresholds to determine when certain requirements apply to new stationary sources and to modifications of existing stationary sources. If a new or modified facility will emit PM_{2.5} or PM_{2.5} precursor emissions greater than the major source thresholds, the facility is considered a major source. Under the federal Clean Air Act (CAA), sources in a “moderate” PM_{2.5} nonattainment area are defined as major sources for nonattainment NSR provisions if they have a potential to emit 100 or more tons per year of PM_{2.5} or PM_{2.5} precursors.

¹ 81 FR 1514 published on January 13, 2016.

Under a “serious” nonattainment classification, the threshold is reduced to a potential to emit 70 or more tons per year of PM_{2.5} or PM_{2.5} precursors.

The Basin was originally classified as “nonattainment” for the 2006 PM_{2.5} 24-hour NAAQS in 2009 with an attainment date of 2015, however, consistent with a court ruling, all areas that were previously classified nonattainment were subsequently reclassified as “moderate” nonattainment (79 FR 31566). ~~Despite continued air quality improvements, a~~ Analysis of preliminary 2015 air quality data indicated the 2006 PM_{2.5} 24-hour NAAQS would not be met by the statutory attainment date for “moderate” nonattainment areas, primarily due to extended drought conditions. Under the federal CAA, U.S. EPA has discretionary authority to reclassify and extend the attainment date for an area that cannot practicably attain the NAAQS by the statutory deadline. Accordingly, the SCAQMD Governing Board petitioned the U.S. EPA in July of 2015 to reclassify the Basin as a “serious” PM_{2.5} nonattainment area for the 2006 24-hour PM_{2.5} NAAQS. This request would extend the PM_{2.5} attainment date to no later than December 31, 2019. U.S. EPA reviewed the request and prepared a final rule which became effective on February 12, 2016 (81 FR 1514). In U.S. EPA’s final rule to reclassify the Basin, it was noted the action would expedite the application of more stringent NSR requirements, including establishing appropriate “Major Stationary Source” thresholds for direct PM_{2.5} and PM_{2.5} precursors.²

It should be noted, the draft 2016 Air Quality Management Plan (AQMP) includes a request for U.S. EPA to reclassify the Basin to a “serious” nonattainment area for the PM_{2.5} annual standard (12 µg/m³). The annual PM_{2.5} standard attainment date would be 2025 under “serious” nonattainment status (SCAQMD, 2016).

Regulatory History

Rule 1302

Regulation XIII – New Source Review (NSR), establishes the federal and State mandated pre-construction review program for new, modified, or relocated sources in the SCAQMD jurisdiction. The NSR program is a critical component of the SCAQMD’s attainment strategy and ensures that all new and modified sources install Best Available Control Technology (BACT) and their emission increases are fully offset with creditable emission reductions. Regulation XIII currently consists of 13 rules. Rule 1302 specifies the definitions used in Regulation XIII.

Rule 1325

Rule 1325 was adopted June 3, 2011 to incorporate U.S. EPA’s requirements for PM_{2.5} into Regulation XIII – NSR. The rule mirrors federal requirements which include the definition of major source, significant emissions rate, offset ratios, and the applicability

² For the purposes of PAR 1302 and 1325, the terms “major source”, “major stationary source” and “major polluting facility” have the same meaning and are interchangeable.

requirements of Lowest Achievable Emission Rate (LAER), facility compliance, offsets, and control of PM_{2.5} precursors.

Affected Industry

Rule 1302

Rule 1302 is being amended to correct the major source threshold for SO_x to 70 tons per year as a precursor to PM_{2.5} and PM₁₀ (currently the threshold in Rule 1302 is 100 tons per year). Affected sources are those with a potential to emit over 70 tons per year, which will be subject to NSR if constructing a modification that exceeds the significant emissions rate for SO₂ (40 tons per year). Table 1 lists sources with actual emissions at least 50 tons per year of SO_x as reported by the facilities under the Annual Emissions Reporting (AER) provisions of SCAQMD Rule 301.

As mentioned, the existing Rule 1302 Major Source definition thresholds are based on actual or permit conditions that limit potential to emit (PTE) levels, the latter representing the maximum capacity of a stationary source to emit a pollutant under its physical and operational design unless limited by a federally enforceable permit condition. There would be additional facilities with permitted PTE levels of 50 tons or more of SO_x emissions. However, staff does not anticipate any new facilities that would exceed the new Rule 1302 SO_x threshold, especially since most new NO_x sources over 4 tons per year must enter RECLAIM.

Table 1. List of Facilities in the South Coast Air Basin Reporting 50 tons or more of SO_x Emissions in Calendar Year 2015

Facility ID	Facility Name	SIC Code	NAICS Code	CY 2015 Reported Emissions Data
				SO _x (TPY)
174655	TESORO REFINING & MARKETING CO, LLC	2911	324110	503
171109	PHILLIPS 66 CO./LOS ANGELES REFINERY	2911	324110	340
800089	EXXONMOBIL OIL CORPORATION	2911	324110	333
174591	TESORO REF & MKTG CO LLC,CALCINER	3463	561110	329
800030	CHEVRON PRODUCTS CO.	2911	324110	300
800436	TESORO REFINING AND MARKETING CO, LLC	2911	324110	163
25070	LA CNTY SANITATION DISTRICT-PUENTE HILLS	4953	562212	137
171107	PHILLIPS 66 CO/LA REFINERY WILMINGTON PL	2911	324110	132
800026	ULTRAMAR INC	2911	324110	94
7427	OWENS-BROCKWAY GLASS CONTAINER INC	3221	327213	61
100154	DESERT VIEW POWER	4910	221112	50

Rule 1325

Existing Rule 1325 applies to new Major Polluting Facilities of PM_{2.5} or its precursors; Major Modifications to Major Polluting Facilities of PM_{2.5} or its precursors; and any facility with an emissions increase of a potential to emit 100 (*70 under PAR 1325*) tons per year or more of PM_{2.5} or its precursors. The Rule applies in federal nonattainment areas for PM_{2.5} and for the SCAQMD it is only applicable in the Basin. The Coachella Valley area is not classified as nonattainment for PM_{2.5}. This rule is being amended to lower the major source threshold for PM_{2.5} and its precursors to 70 tons per year as required for “serious” PM_{2.5} nonattainment areas. The proposed amendment would also align rule provisions with the U.S. EPA’s Fine Particulate Matter National Ambient Air Quality Standards implementation rule (U.S. EPA, 2016).

Table 2 lists sources with actual emissions greater than 50 tons per year of PM (i.e., total Particulate Matter) as reported by the facilities under the AER provisions of SCAQMD Rule 301. As described, Table 2 data is for PM emissions and depending on the PM_{2.5} fraction for individual sources the PM_{2.5} emissions for a facility could be ~~much~~ less. As an example, PM_{2.5} emissions were 29% of the PM emissions for one asphalt processing facility based on 2012 data. However, combustion sources would have a higher percent PM_{2.5} of PM.

The existing Rule 1325 Major Source definition thresholds are based on permit conditions that limit potential to emit (PTE) levels. In contrast to actual reported emissions in Table 2, a review of active permits indicates there are approximately 240 facilities in the Basin with permitted PTE levels of 50 tons or more per year of PM emissions. As previously described, the total emissions reported by a facility in a given calendar year as required by the AER program under SCAQMD Rule 301 represent actual emissions which are generally lower than the PTE levels, sometimes by a great extent. For example, for the facility with the highest reported actual PM emissions in Table 2 the PTE levels are over three times higher than actual emissions for the reporting year. Additionally, as mentioned, PM_{2.5} emissions comprise only a fraction of total PM emissions and there may therefore be fewer than 240 facilities with permitted PTE levels of 50 tons or more per year of PM_{2.5} emissions. ~~Lastly, approximately ten percent of the permits with PM PTE levels in excess of 50 tons per year were various location permits (such as sandblasting operations) which would not exceed the thresholds.~~

Table 2. List of Facilities in the South Coast Air Basin Reporting 50 tons or more of PM Emissions in Calendar Year 2015

Facility ID	Facility Name	SIC Code	NAICS Code	CY 2015 Reported Emissions Data		
				NOx (TPY)	SOx (TPY)	PM (TPY)
174655	TESORO REFINING & MARKETING CO, LLC	2911	541910	667	503	402
800436	TESORO REFINING AND MARKETING CO, LLC	2911	324110	706	163	300
800089	EXXONMOBIL OIL CORPORATION	2911	324110	510	333	237
800030	CHEVRON PRODUCTS CO.	2911	324110	758	300	236
171107	PHILLIPS 66 CO/LA REFINERY WILMINGTON PL	2911	324110	493	132	178
800181	CALIFORNIA PORTLAND CEMENT CO	3241	327310	1	0	144
160437	SOUTHERN CALIFORNIA EDISON	4911	221112	117	15	127
800026	ULTRAMAR INC	2911	324110	309	94	99
171109	PHILLIPS 66 COMPANY/LOS ANGELES REFINERY	2911	324110	401	340	73
3704	ALL AMERICAN ASPHALT, UNIT NO.01	2951	324121	11	0	71
42623	ROBERTSON'S READY MIX	5032	327320			70
20774	HANSON AGGREGATES W. INC/IRWINDALE ROCK	1442	212321	0	0	61
16642	ANHEUSER-BUSCH LLC., (LA BREWERY)	2082	312120	34	0	59
127721	F S T SAND & GRAVEL INC	5032	423320	0	0	55
117290	B BRAUN MEDICAL, INC	2834	325412	7	0	53
800088	3M COMPANY	3295	212319	7	0	52
25070	LA CNTY SANITATION DISTRICT-PUENTE HILLS	4953	562212	72	137	52
18931	TAMCO	3312	331110	87	33	51
34281	CALMAT CO	3273	212321			50

SUMMARY OF PROPOSED AMENDED RULES

The following sections describe PAR 1302 – Definitions (Part of Regulation XIII – New Source Review) and PAR 1325 – Federal PM_{2.5} New Source Review Program.

Proposed Amended Rule 1302

The Allocation definition, subparagraph (b)(2), is proposed to be modified to remove direct reference to the term emission reduction credit (ERC) which does not apply to allocations from the Priority Reserve and which is defined separately in existing Rule 1302 and subject to different requirements throughout Regulation XIII. Under PAR 1302, Allocation would be defined as “...emissions offsets issued from the Priority Reserve”.

The term Major Stationary Source was added to Rule 1302 as part of a July 12, 1985 amendment and was defined as, “any stationary source which emits or has the potential to emit 100 tons per year or more of any pollutant subject to regulation under the Clean

Air Act”. A December 7, 1995 amendment, which was subsequently State Implementation Plan (SIP)-approved³ by the U.S. EPA, changed the terminology to Major Polluting Facility and the South Coast Air Basin threshold was 70 tons per year or more for SOx emissions because at that time the area was classified as a “serious” nonattainment area for PM10 and SOx emissions are a PM10 precursor. As part of the October 20, 2000 amendment, the Major Polluting Facility threshold was changed to 100 tons per year or more of SOx emissions and this threshold remained in place as of the most recent December 6, 2002 amendment. Under the Basin’s previous PM10 “serious” ~~and PM2.5 “moderate” nonattainment~~ area designations, the SOx Major Polluting Facility threshold was 70 tons per year under federal requirements as SOx emissions are a precursor to PM2.5~~10~~ emissions. Accordingly, the Rule 1302 Major Polluting Facility SOx thresholds for the Basin in subdivision (s) would be modified from 100 to 70 tons per year under this proposed amendment to be consistent with the SIP approved rule and with the Coachella Valley requirement. The same modification is also necessary in the proposed amendment to lower the Major Polluting Facility SOx threshold from 100 to 70 tons per year for the Riverside County portion of the Salton Sea Air Basin (SSAB) which remains classified as a “serious” PM10 nonattainment area.⁴ No change is necessary for the Major Polluting Facility SOx threshold used for the non-Palo Verde Riverside County portion of the Mojave Desert Air Basin which is not classified as either a PM10 or PM2.5 nonattainment area.

The proposed clarification to the Rule 1302 Allocation definition is editorial in nature and is intended to improve clarity and consistency in Regulation XIII. Editorial changes to internal Rule references are also proposed to improve consistency with SCAQMD regulations. Reducing the Rule 1302 major polluting facility threshold for SOx from 100 to 70 tons per year is updating an SCAQMD regulation and the 70 tons per year threshold has been in effect under federal law because U.S. EPA never approved the 100 tons per year SOx threshold. Accordingly, no impacts are expected to new or existing facilities under PAR 1302.

Proposed Amended Rule 1325

The definition of a Major Polluting Facility [paragraph (b)(4)] would be changed to lower the threshold from 100 to 70 tons per year of PM2.5 and PM2.5 precursor emissions under the proposed amendment to comply with “serious” area requirements for PM2.5. The proposed amendment would also align rule provisions with the U.S. EPA’s Fine Particulate Matter National Ambient Air Quality Standards implementation rule. As with the current regulation, a facility is considered a Major Polluting Facility only for the specific pollutant(s) exceeding the threshold. As mentioned, the Major Source definition, which references 40 CFR 51.165(a)(1), has the same meaning as Major Polluting Facility.

³ 61 FR 64291 published on December 4, 1996.

⁴ A request to reclassify the SSAB portion of Riverside County (i.e., Coachella Valley) as attainment for the PM10 NAAQS has been submitted, however, U.S. EPA has requested additional air quality monitoring to be conducted and submitted prior to taking action.

Precursors are currently defined in paragraph (b)(8) of Rule 1325 as nitrogen oxides (NO_x) and sulfur dioxide (SO₂). Under PAR 1325 the list of precursors would be expanded to include volatile organic compounds (VOC) and ammonia, as required under U.S. EPA's 2016 implementation rule for PM_{2.5} SIPs and a court decision requiring states to regulate PM_{2.5} under the same part of the CAA as PM₁₀.

Under existing Rule 1325 Major Modification, paragraph (b)(3), means any physical change in or change in the method of operation of a Major Polluting Facility that would result in: a significant emissions increase of a regulated NSR pollutant; and a significant new emissions increase of that pollutant from the Major Polluting Facility. Existing Rule 1325 [paragraph (b)(12)] then establishes the following thresholds for determining when a net emission increase or the potential of a source to emit a pollutant is considered Significant:

Nitrogen oxides: 40 tons per year

Sulfur dioxide: 40 tons per year

PM_{2.5}: 10 tons per year

Because PAR 1325 identifies VOC and ammonia as ~~P~~precursors, new significant modification thresholds are proposed for those pollutants. The thresholds are based on the existing Rule 1325 values for PM_{2.5} precursors nitrogen oxides and sulfur dioxide; ~~or of~~ 40 tons per year. U.S. EPA's regulation requires the threshold for VOCs to be 40 tons per year but allows states to propose thresholds for ammonia. SCAQMD staff proposes the same 40 tons per year threshold for ammonia, ~~and t~~this is a conservative approach as since on a regional basis, NO_x emissions have a greater influence in the formation of secondary ambient PM_{2.5} ~~when compared to~~ than ammonia emissions.

The threshold used for accumulated emission increases in subdivision (f) due to permit actions within any two-year period is similarly proposed to be reduced from 100 to 70 tons per year of PM_{2.5} due to the reclassification of the Basin to a "serious" nonattainment area for PM_{2.5}. As with the 2011 version of Rule 1325, this proposed amendment serves as an anti-piecemealing provision to prevent sources which currently emit less than 70 tons per year of PM_{2.5} from increasing more than 70 tons per year of PM_{2.5} without providing offsets by phasing the project.

An Offset Exemption for Regulatory Compliance section is also proposed to be added to PAR 1325. Specifically, under the provisions of proposed subdivision (j), an exemption from the Rule 1325 offset requirements may be allowed for a source modified or installed provided the action is solely to comply with an SCAQMD, State or federal air pollution regulation or order. Such an exemption would be subject to Executive Officer approval and can only be granted if there is no increase in the source's maximum rating. The same provisions that are consistent with the CAA, are included in SCAQMD Rule 1304* but is proposed to be included in Rule 1325 as a standalone PM_{2.5} NSR regulation to meet federal PM_{2.5} requirements for Rule 1325. Editorial rule reference changes are also included in PAR 1325 to improve clarity.

* Per CAA Sections 171 - 193

No PAR 1325 impacts are anticipated because the proposed updated PM_{2.5} Major Source threshold (70 tons per year of PM_{2.5} and PM_{2.5} precursors) is very high before requirements are triggered, and it is likely ~~in many cases that existing facilities would take a cap on total facility PM_{2.5} emissions, and/or make concurrent facility reductions to avoid triggering the PM_{2.5} NSR requirements.~~ It is likely that if a new large emitter was proposed in the Basin, the facility would accept a 70 ton per year facility cap to avoid federal NSR applicability. Additionally, existing SCAQMD NSR requirements for PM_{2.5} precursor (NO_x and SO_x) sources are more stringent than potential PAR 1325 requirements. No impacts are expected for the addition of VOC as a precursor pollutant as VOC sources are presently subject to more stringent requirements under existing SCAQMD ozone regulations.

For ammonia, there are source categories (refineries and agricultural sources) which could be affected under PAR 1325 requirements. For refineries, the staff report and environmental assessment prepared for the recent SCAQMD Regulation XX-RECLAIM amendments included an analysis of potential increase in ammonia slip due to increased use of ammonia needed for Selective Catalytic Reduction (SCR) control technologies. In the analysis, a series of assumptions were made based on information provided by refineries and consultant reports prepared for each affected facility to predict, on a case-by-case basis, how each facility will comply with the modified regulations. The analysis concluded that increased use of ammonia for SCR technologies may increase ammonia emissions by as much as 1.63 tons per day (SCAQMD, 2015). Although there could be instances where the PAR 1325 significant modification threshold for ammonia (40 tons per year) could be exceeded, the analysis conducted for the RECLAIM amendments was based on a series of assumptions and facilities may choose to implement strategies that would not exceed the PAR 1325 significant modification threshold. Moreover, these sources could be eligible to use the proposed subdivision (j) exemption provisions provided there was no increase in maximum rating because SCR refinery projects intended to reduce NO_x emissions, but as a collateral effect increasing ammonia emissions, would not increase a facility's maximum rating.

PAR 1325 is not anticipated to impact agricultural sources because the type of facility most likely to have larger sources of ammonia emissions, dairies, are not included in the list of facilities that are required to include fugitive emission sources as part of a major source determination, thereby excluding these fugitive ammonia emissions (73 Fed. Reg. 77882, Dec. 19, 2008).

AQMP and Legal Mandates

The California Health and Safety Code requires the SCAQMD to adopt an AQMP to meet State and federal ambient air quality standards and adopt rules and regulations that carry out the objectives of the AQMP. PAR 1302 and PAR 1325 were not included as control measures in the 2012 AQMP. However, the amendments are necessary to implement CAA requirements, and U.S. EPA's Fine Particulate Matter National Ambient Air Quality Standards implementation rule, for areas classified as "serious" nonattainment for PM_{2.5} and to clarify a definition.

Cost and Cost-Effectiveness

PAR 1302 and PAR 1325 are not anticipated to result in emissions reductions or additional costs, and therefore a cost effectiveness analysis was not prepared.

Incremental Cost Effectiveness

California H&S Code § 40920.6 requires an incremental cost effectiveness analysis for BARCT rules or emission reduction strategies when there is more than one control option which would achieve the emission reduction objective of the proposed amendments, relative to ozone, CO, SOx, NOx, and their precursors. PAR 1302 and PAR 1325 do not include new BARCT requirement or a feasible measure required by the California Clean Air Act (CAAA); therefore this provision does not apply to the proposed amendments.

SOCIOECONOMIC ASSESSMENT

The Proposed Amendment to Rule 1302 to lower the SOx major source threshold to 70 tons per year has been in effect under federal law and, as such, there are no socioeconomic impacts anticipated. For the change in SOx threshold in Rule 1302, there are not likely to be any new sources affected by this amendment, especially since most new SOx sources will be included in RECLAIM and not affected by this amendment.

The Proposed Amendments to Rule 1325 are for the purpose to comply with the requirements of U.S. EPA's reclassification of the South Coast Air Basin as a "serious" nonattainment area for the 2006 24-hour PM2.5 NAAQS and would also align rule provisions with the U.S. EPA's Fine Particulate Matter NAAQS implementation rule. It would not take effect until the federal requirements are in effect, and therefore would not have any socioeconomic impacts greater than the effective federal requirements. No socioeconomic impacts are expected for the addition of VOC a precursor pollutant because it is already subject to a more stringent SCAQMD regulation. For the addition of ammonia as precursor pollutant, while there are source categories which could exceed the modification threshold, these sources would likely apply for an Offset Exemption for Regulatory Compliance (proposed subdivision j), thereby incurring no significant costs.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

SCAQMD staff has reviewed the proposed project pursuant to: 1) CEQA Guidelines §15002 (k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and, 2) CEQA Guidelines §15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. The proposed Rule 1302 amendments to the definition of allocation are administrative in nature and will not cause any significant impacts. The proposed change in the SOx threshold from 100 tons per year to 70 tons per year is already federally enforceable

because the U.S. EPA never approved the previous rule amendment raising the threshold to 100 tons per year into the State Implementation Plan (SIP). Moreover, it is unlikely that any new SOx sources will exceed this threshold especially since most SOx sources of 4 tons per year or more must enter the Regional Clean Air Incentives Market (RECLAIM) and provide offsets through RECLAIM Trading Credits (RTCs) in accordance with SCAQMD's Regulation XX. The proposed Rule 1325 amendments are federally required due to the change to a serious non-attainment status and will only take effect when the federal requirement takes effect, and therefore will not change the then existing requirements. ~~Finally~~Also, because providing an offset exemption for regulatory compliance in Rule 1325 would be restricted to sources that are required to comply with a SCAQMD, state or federal regulation or order and would not have an increase in the source's maximum rating, no change in emissions from these sources are expected. Finally, staff does not project any new or modified sources exceeding the 70 tons per year PM2.5 and PM2.5 precursors threshold, so there will be no environmental impact from the proposed amendments to Rule 1325 and any potential affected source would likely take a 70 tons per year cap. Therefore, the SCAQMD has determined that it can be seen with certainty that there is no possibility that the adoption of the proposed amendments to Rules 1302 and 1325 may have a significant adverse effect on the environment. Thus, the project is considered to be exempt from CEQA pursuant to CEQA Guidelines §15061 (b)(3) – Activities Covered by General Rule. Furthermore, the proposed project is categorically exempt from CEQA because the proposed amendments, if implemented, are considered actions to protect or enhance the environment pursuant to CEQA Guidelines §15308 – Actions by Regulatory Agencies for Protection of the Environment.

A Notice of Exemption has been prepared pursuant to CEQA Guidelines § 15062 - Notice of Exemption. If the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE SECTION 40727

Health and Safety Code Section 40727 requires that prior to adopting, amending or repealing a rule or regulation, the SCAQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the hearing. The draft findings are as follows:

Necessity – The SCAQMD Governing Board has determined that a need exists to amend Rule 1302 – Definitions to improve consistency and to amend Rule 1325 – Federal PM2.5 New Source Review Program to meet federal CAA requirements as a result of the Basin's reclassification from a “moderate” to a “serious” PM2.5 nonattainment area.

Authority – The SCAQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Health and Safety Code Sections 39002, 40000, 40001, 40440, 40441, 40702 and 41508.

Clarity – The SCAQMD Governing Board has determined that Proposed Amended Rule 1302 – Definitions and Proposed Amended Rule 1325 – Federal PM2.5 New Source Review Program, are written and displayed so that the meaning can be easily understood by persons directly affected by them.

Consistency – The SCAQMD Governing Board has determined that Proposed Amended Rule 1302 – Definitions and Proposed Amended Rule 1325 – Federal PM2.5 New Source Review Program, are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, federal or state regulations.

Non-Duplication – The SCAQMD Governing Board has determined that Proposed Amended Rule 1302 – Definitions and Proposed Amended Rule 1325 – Federal PM2.5 New Source Review Program, do not impose the same requirement as any existing State or federal regulation, and the proposed amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the SCAQMD.

Reference – In adopting this regulation, the SCAQMD Governing Board references the following statutes which the SCAQMD hereby implements, interprets or makes specific: California Health and Safety Code sections 40001, 40440, and 40702, 42300 et seq., and Clean Air Act §§ 172 and 173.

Comparative Analysis

A comparative analysis, as required by H&S Code §40727.2, is applicable when an amended rule or regulation imposes, or has the potential to impose, a new emissions limit, or other air pollution control requirements and requires describing requirements applicable to the same source category. The proposed amended thresholds will take effect at the same time when these thresholds take effect under federal law, and therefore would not make a then existing standard more stringent so that the comparative analysis requirement pursuant to Health and Safety Code Section 40727.2(g) is met. Moreover, New Source Review requires all permitted source categories so it is not possible to describe all rules that apply to all source categories for a comparative analysis.

U.S. EPA COMMENTS AND RESPONSES

The following section summarizes comments received from U.S. EPA (email dated September 1, 2016) and SCAQMD staff's responses.

Comment: PAR 1325 subdivision (b) language is recommended to be amended to only cite the November 4, 2016 date to avoid potential confusion and the need to determine whether any definitions have changed from the previous 2011 amendment and the 2016 amendments.

Response: SCAQMD staff has made the following PAR 1325 change to reflect the intent of this comment:

(b) Definitions

For the purposes of this rule, the definitions in Title 40 CFR 51.165(a)(1), as it exists on ~~June 11, 2011~~ *(date of adoption)*, shall apply, unless the same term is defined below, then the defined term below shall apply.

Comment: For clarity and enforceability, it is recommended that each PAR 1325 threshold used in the Major Polluting Facility definition [paragraph (b)(4)] and the accumulated emissions increase provisions [subdivision (f)] be listed separately with the appropriate effective date. Additionally, it is recommended the text refer to the effective date for U.S. EPA's approval of the November 4, 2016 PAR 1325 amendments.

Response: SCAQMD staff has made the following PAR 1325 changes to reflect the intent of this comment:

- (4) MAJOR POLLUTING FACILITY means, on a pollutant specific basis, any emissions source located in areas federally designated pursuant to 40 CFR 81.305 as non-attainment for PM_{2.5}, including the South Coast Air Basin (SOCAB) which has actual emissions of, or the potential to emit, 100 tons or more per year of PM_{2.5}, or its precursors at or above the following levels:
 - (A) 100 tons per year per pollutant until August 14, 2017 or until the effective date of U.S. EPA's approval of the *(date of adoption)* amendments to this rule, whichever is later; and,
 - (B) 70 tons per year per pollutant after August 14, 2017 or upon the effective date of U.S. EPA's approval of the *(date of adoption)* amendments to this rule, whichever is later.
- (f) Two Year Limit on Facility Exemption
Any facility, with accumulated emission increases ~~in excess of 100 tons at~~ or above the levels specified in paragraphs (f)(1) or (f)(2) per year of PM_{2.5}, whichever is applicable, due to permit actions within any two-year period after June 3, 2011, shall offset the total emission increases during such period to zero.
 - (1) 100 tons per year until August 14, 2017 or until the effective date of U.S. EPA's approval of the *(date of adoption)* amendments to this rule, whichever is later.
 - (2) 70 tons per year after August 14, 2017 or upon the effective date of U.S. EPA's approval of the *(date of adoption)* amendments to this rule, whichever is later.

PUBLIC PROCESS

A public workshop was held on August 17, 2016. As of August 26, 2016, no public comments had been received. Subsequent to the October 4, 2016 release of the Draft Staff Report two comments from California Energy Commission staff were received by email and below are SCAQMD staff responses.

Comment: How are the 70 TPY thresholds for PM2.5 and its precursors calculated? Is the number from the corresponding EPA regulations, or derived by district staff after studying the emission inventory?

Response: As described in the Draft Staff Report, the Basin was recently reclassified as a “serious” nonattainment area for the 2006 PM2.5 24-hour NAAQS. CAA Section 189(b)(3) establishes requirements for areas classified as “serious” nonattainment and defines major sources as any stationary source that emits or has a potential to emit at least 70 tons per year of PM10 in any area with such classification. CAA Section 189(e)(3) further establishes that control requirements are applicable to major source PM10 precursors unless a determination is made that such sources do not contribute significantly to NAAQS exceedances. A 2013 federal court ruling clarified that implementation of PM2.5 NAAQS is subject to the same statutory requirements as the PM10 NAAQS [NRDC v. EPA, 706 F.3d 428 (D.C. Cir.2013)]. Accordingly, the major source threshold for areas classified as serious nonattainment for PM2.5 is any stationary source that emits or has a potential to emit at least 70 tons per year of PM2.5 or PM2.5 precursors.

Comment: As the PM2.5 precursor, the proposed “major polluting facility” threshold for NOx, SOx, VOC in Rule 1325 will be 70 TPY. However, in Rule 1302 (page 1302-4 to 1302-5), the thresholds for the same pollutants are generally much lower no matter which area of the district (for example, NOx threshold will be 10 tpy for the SOCAB and 25 tpy for SSAB). What is the relationship between the thresholds in 1302 and 1325? When determining a project major or not, will you just apply the most stringent thresholds between these two rules?

Response: Rule 1325 – Federal PM2.5 New Source Review Program is a standalone regulation for PM2.5 and PM2.5 precursors. Rule 1302 – Definitions is applicable to nonattainment air contaminants or their precursors. The Rule 1302 major polluting facility NOx threshold mentioned in the comment (10 tons per year) is based on the Basin’s classification as an “extreme” nonattainment area for ozone. As such, the most stringent applicable threshold would apply. The thresholds within Rule 1325 are applicable for Rule 1325 requirements only, whereas the thresholds in Rule 1302 apply to the requirements under all rules within Regulation XIII.

CONCLUSIONS AND RECOMMENDATIONS

Reducing the Rule 1302 major polluting facility threshold for SOx from 100 to 70 tons per year is updating an SCAQMD regulation and the 70 tons per year threshold has

been in effect under federal law because U.S. EPA never approved the change of the SO₂ threshold from 70 to 100 tons per year. Other proposed changes to Rule 1302 are editorial in nature and are intended to improve rule clarity and consistency. As a result, no additional impacts are anticipated from implementation of PAR 1302.

No PAR 1325 impacts are anticipated because the proposed updated PM_{2.5} major source threshold is high, and it is likely that if a new large emitter was proposed in the Basin, the facility would accept a 70 ton per year facility cap to avoid federal NSR applicability. No PAR 1325 impacts are expected for existing sources as it is unlikely any facility would have an emissions increase or a potential to emit increase of PM_{2.5} or its precursors that would trigger a major modification (currently defined in Rule 1325 as NO_x/SO_x 40 TPY and PM_{2.5} 10 TPY) and SCAQMD staff is unaware of any proposed projects at existing facilities with PM_{2.5} or PM_{2.5} precursor emissions exceeding the thresholds. For reference, two facilities are currently in the permitting process but both projects are proposing permit conditions limiting PTE PM_{2.5} levels below 70 tons per year. Additionally, existing SCAQMD NSR requirements for PM_{2.5} precursor (NO_x and SO_x) sources are more stringent than potential PAR 1325 requirements.

No impacts are expected for the addition of VOC and ammonia as precursor pollutants or the newly proposed thresholds to determine if VOC and ammonia emissions would be considered significant under the Major Modification definition as VOC sources are presently subject to more stringent requirements under existing SCAQMD ozone regulations than what could potentially be required under PAR 1325. For ammonia, significant impacts are not expected because of the proposed PAR 1325 offset exemption for regulatory compliance provisions which could be invoked by sources installing SCR technologies provided there is no increase in maximum rating. Additionally, the type of facility most likely to have larger sources of ammonia emissions, dairies, are not included in the list of facilities that included fugitive emission sources as part of a major source determination (73 Fed. Reg. 77882, Dec. 19, 2008) and thus would not be affected by PAR 1325 amendments.

No impacts are anticipated from addition of the Offset Exemption for Regulatory Compliance subdivision as the same provisions are included in existing SCAQMD Rule 1304. Additionally, as described, sources seeking this exemption would not be allowed any increase in maximum rating and would be subject to BACT and Executive Officer approval.

SCAQMD staff therefore recommends approval of PAR 1302 to improve rule clarity and PAR 1325 to implement federal CAA requirements for areas classified as “serious” nonattainment for PM_{2.5} and to align rule provisions with the U.S. EPA’s Fine Particulate Matter National Ambient Air Quality Standards implementation rule.

REFERENCES

SCAQMD, 2015. South Coast Air Quality Management District Final Program Environmental Assessment for Proposed Amended Regulation XX – Regional Clean Air Incentives Market (RECLAIM); November, 2015.

SCAQMD, 2016. South Coast Air Quality Management District Draft 2016 Air Quality Management Plan (AQMP); June, 2016.

U.S. EPA, 2016. United State Environmental Protection Agency Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (81 FR 58010, published August 24, 2016).